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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09 776,602	02 02 2001	Kevin Anthony Simms	01-EDP-011	4716

7590 06 04 2003

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EXAMINER

DONOVAN, LINCOLN D

ART UNIT PAPER NUMBER

2832

DATE MAILED: 06 04 2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
**09/776,602**

Applicant(s)

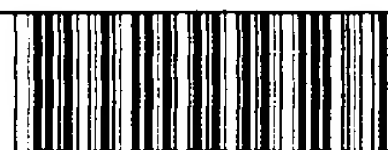
**Simms et al.**

Examiner

**Lincoln Donovan**

Art Unit

**2832**



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Mar 17, 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above, claim(s) 15-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 and 18-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Feb 2, 2001 is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4. Interview Summary (PTO-413) Paper No. s. \_\_\_\_\_
2. Notice of Draftsperson's Patent Drawing Review (PTO-948) 5. Notice of Informal Patent Application (PTO-152)
3. ☒ Information Disclosure Statement(s) (PTO-1449) Paper No. s. 4 6. Other: \_\_\_\_\_

Art Unit: 2832

## **DETAILED ACTION**

### ***Election/Restriction***

1. Claims 15-17 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected claimed invention, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 6.

### ***Drawings***

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the specific mounting details of the switch being mounted within the base must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

### ***Specification***

3. The disclosure is objected to because of the following informalities: applicant must provide serial numbers and filing dates of related cases. All references to attorney docket numbers in the specification must be deleted.

Appropriate correction is required.

Art Unit: 2832

*Claim Rejections - 35 USC § 112*

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 2-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 2-4, applicant should clarify the mounting arrangement of the switch within the base and cover of the breaker. The specific surfaces and orientations thereof are not clear.

*Claim Rejections - 35 USC § 103*

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-6, 14 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan 6-251686 in view of Fujihisa et al. [US 5,172,086].

Japan 6-251686 discloses a circuit breaker [figure 1A] comprising:

- a housing [11];
- at least one set of separable contacts [3];

Art Unit: 2832

- an operating mechanism [4] including an operator handle [2] having a surface [24], the operating mechanism having an ON position and an OFF position;
- a trip mechanism [9];
- a microswitch [7], mounted within the housing, including an actuation lever movable between an actuated position and a non-actuated position adapted to engage the surface of the operator handle.

Japan 6-251686 discloses the instant claimed invention except for the specific switching configurations of the operator handle relative to the microswitch and the specific mounting of the microswitch within the housing.

Fujihisa et al. disclose a circuit breaker [figure 1] having a microswitch [30, 31] engageable with a surface of the operating handle [28c] of the breaker.

It would have been obvious to one having ordinary skill in the art at the time the invention was made that various switching combinations could have been used with the microswitch design of Japan 6-251686, as suggested by Fujihisa et al., in order to provide multiple switching paths and operation control.

Regarding claims 2-4, as best able to be understood in view of the rejections under 35 U.S.C. 112, second paragraph, Fujihisa et al. further shows the switch being mounted within a cavity between base and cover portions [1, 2] of the circuit breaker housing.

Art Unit: 2832

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the base and cover portions of the housing of Japan 6-251686, as suggested by Fujihisa et al., in order to hold the switch securely.

The specific positions of the actuator relative to handle position would have been an obvious design consideration based on the desired feedback intended to be provided by the switch.

8. Claims 7-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Japan 6-251686, as modified, as applied to claim 1 above, and further in view of Ohishi et al. [US 4,947,145].

Fujihisa et al. further disclose the breaker being configured for remote controlled operation with a plurality of switches controlling the operation thereof.

Ohishi et al. disclose a circuit breaker having a selectively operated solenoid controlled remote operator with a contact set in series with the main contacts.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to use the remote contact design of Ohishi et al. in Japan 6-251686, as modified, for the purpose of minimizing contact damage.

The particular switching sequence used to operate the remote relative to the handle position would have been an obvious design consideration based on the operating environment, safety considerations and intended application.

### *Conclusion*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Lincoln Donovan whose telephone number is (703) 308-3111.

Application/Control Number: 09/776,602

Page 6

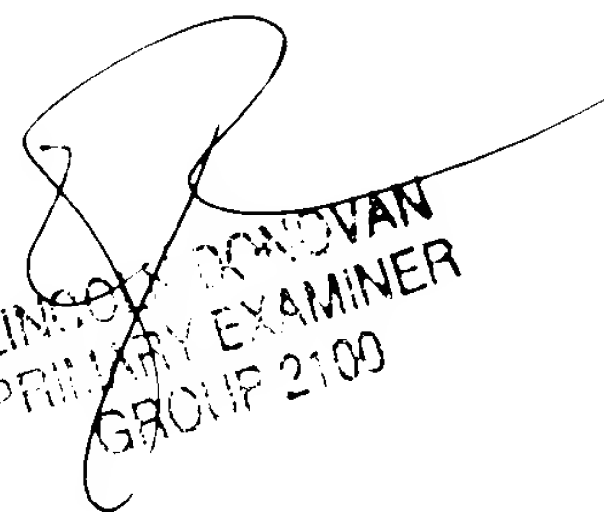
Art Unit: 2832

The fax number for this Group is (703)-872-9318.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1782.

LDD

May 24, 2003

  
LINDSEY DONOVAN  
PRIMARY EXAMINER  
GROUP 2100